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| 09/784,843 | 02/15/2001 | John T. Hurst | 30788-00016 | 3829 |
| 43914 7590 09/30/2008 JOSEPH SWAN, A PROFESSIONAL CORPORATION 1334 PARKVIEW AVENUE, SUITE100 MANHATTAN BEACH, CA 90266 | | | | |
| EXAMINER BLAIR, DOUGLAS B | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/784,843

Applicant(s)

HURST ET AL.

Examiner

DOUGLAS B. BLAIR

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,7-9,11,12,15,17-19,21,23 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-9,11,12,15,17-19,21,23 and 25-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notices of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Claims 1, 5, 7-9, 11, 12, 15, 17-19, 21, 23, and 25-33 currently amended. Claim 33 is currently amended.

Response to Arguments

The applicant's arguments and amendments overcoming the rejections based on 35 USC 101 and 112 and the drawing objections are considered persuasive.

The applicant's arguments with respect to the prior art are not persuasive. The applicant's main argument appears to be that the Nagai does not teach the transmission of the chunk files and instead the recipient retrieves small clips of the files in an on demand basis. The Examiner contends that even if this is the case, as alleged by the applicant, such retrievals read on the applicant's broadly claimed transmission. Nagai explicitly teaches the transmitting media files in the background as being the purpose of the invention as previously pointed out (See col. 1, lines 26-46). It would be pointless for Nagai to create the files and then do nothing with them. The applicant's broadly claimed step of transmitting is clearly not patentable as the applicant did not invent the concept of transmitting files to a remote location.

If the applicant wishes to further prosecution the applicant should amend the claims to feature details found from pages 9-15. These details about how the applicant implements their chunk files and manifest files would help to differentiate the claims from the prior art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-6, 9, 11-12, 15-16, 19, and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Patent Number 6,795,092 to Nagai et al. in view of U.S. Patent Application Publication Number 2003/0023970 by Panabaker.

As to claim 1, Nagai teaches a method for use in delivering programming content, said method comprising: (a) dividing programming content into smaller chunks of data, wherein said programming content comprises at least one of (i) a software program or (ii) content for playing on an electronic device (col. 5, lines 34-57, and Figure 4); (b) creating a chunk file for each chunk of data, said chunk file including said chunk of data (multimedia files in Figure 4); (c) generating a manifest file that includes information describing how at least one of execute or play the chunks of data (reproduction control information in Figure 4); and (d) transmitting the chunk files created in step (b) and the manifest file generated in step (c) to a remote location (col. 1, lines 26-46 and col. 5, lines 24-33); however Nagai does not explicitly teach wherein at least one of the field transmitted in step (d) is transmitted electronically and at least one of the files transmitted in step (d) is transmitted on a physical storage medium.

Panabacker teaches a method in of distributing programming content which includes a manifest file, in which some files are transmitted electronically and some files are transmitted on a physical medium (paragraph 59).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Nagai regarding a programming content delivery method with the teachings of Panabacker regarding specific delivery method for programming content because sending a manifest file electronically allows quicker updates of presentation data.

As to claim 5, Panabacker teaches a method wherein the chunk files are distributed across a set of physical storage media, and wherein each of said physical storage media in the set contains the manifest file (paragraph 27).

As to claim 9, Nagai teaches a method wherein the manifest file identifies each chunk of data in the programming content (the reproduction control information in Figure 4).

As to claims 25-26, Nagai teaches the transmission of multimedia files and Panabacker teaches the transmission of television. Official Notice is taken that motion pictures are considered to be part of the data that television comprises.

As to claims 11, it is rejected for the same reasons as claim 1.

As to claim 12, the SMIL specification teaches a method wherein the chunks of data are stored such that each chunk remains separately identifiable (multimedia files in Figure 4).

As to claims 15-16 and 19, they are rejected for the same reasons as claims 5-6 and 9.

As to claims 27-33 are rejected for the same reasons as the preceding claims.

Claims 7-8, 17-18, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,795,092 to Nagai et al. in view of U.S. Patent Application Publication Number 2003/0023970 by Panabaker in further view of RFC 1321 by Rivest.

As to claims 7-8, 17-18, 21, and 23 the Nagai-Panabaker combination makes obvious the subject matter of claims 1, 10-11 and 20; however the Nagai-Panabaker combination does not explicitly teach the use of a message digest.

Rivest teaches the use of a message digest for verifying integrity of data (See executive summary).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Nagai-Panabaker combination regarding the use of chunk files for transmitting data with the teachings of Rivest regarding the use of a message digest because a message digest is a computer networking standard and thus a well known method for verifying the integrity of data received. U.S. Patents 5,765,176, 5,745,574 and 5,692,047 are some examples of publications that illustrate the use of message digests.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit
2142

DBB